

REMARKS

The Examiner rejected claim 13 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement.

The Examiner rejected claims 1-12 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

The Examiner rejected claim 13 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

The Examiner rejected claim 14 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

The Examiner rejected claims 1-2 and 7-14 under 35 U.S.C. § 102(e) as allegedly being anticipated by Conlon, Rhonda, "Filling a Range with Sequential Data", Copyright 1997, North Dakota State University Agriculture Communication Department, XP002347869m at: <http://web.archive.org/web/20000901081243/http://www.lgta.org/123/14.data.htm>.

The Examiner rejected claims 3-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Conlon, Rhonda, "Filling a Range with Sequential Data", Copyright 1997, North Dakota State University Agriculture Communication Department, XP002347860, at: <http://web.archive.org/web/20000901081243/http://www.lgta.org/123/14.data.htm> in view of EXCEL.97 Book, Chapter 4: Entering and Editing Data, Available at: <http://libdata.itc.gu.edu.au/lap/XL97BOOK/Excel-04.htm>, 1997.

Applicant respectfully traverses the § 112, § 101, § 102 and § 103 rejections with the following arguments.

35 U.S.C. § 112, First Paragraph

The Examiner rejected claim 13 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement.

The Examiner argues: "Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. All possible means for carrying out the method to any one of the preceding claims is not disclosed in the specification" (emphasis added).

In response, Applicant respectfully contends that the rejection of claim 13 under 35 U.S.C. § 112, first paragraph is moot in light of the amendment of claim 13 herein which does not recite any "means for carrying out" steps.

35 U.S.C. § 101Claims 1-12

The Examiner rejected claims 1-12 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

The Examiner argues: "Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The method consists solely of the manipulation of an abstract idea and does not result in a concrete or tangible result. The claimed invention as a whole must produce a "useful, concrete and tangible" result to have a practical application. The claimed invention recites selecting a range of cells and **activating** a fill-by-sample operation but does not produce a tangible result" (emphasis added).

In response, Applicant has deleted said "activating" so that the recited steps of identifying, ..., filling are fully performed to produce a tangible result by said filling step.

Claim 13

The Examiner rejected claim 13 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

The Examiner argues: "Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim recites a system for carrying out a method and is not being tangibly embodied in a manner so as to be executable and is software per se."

In response, Applicant respectfully contends that the rejection of claim 13 under 35

U.S.C. § 101 is moot in light of the amendment of claim 13 herein which recites "said memory containing instructions that when executed by the processor implement the method of claim 1".

Claim 14

The Examiner rejected claim 14 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

The Examiner argues: "Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim recites a computer program that is not being tangibly embodied in a manner so as to be executable and is software per se. The claim has no category of invention and has no way to realize function. The claim is directed to an abstract idea, and directed solely to non-functional descriptive material. The claimed invention recites selecting a range of cells and **activating** a fill-by-sample operation but does not produce a tangible result" (emphasis added).

In response, Applicant has deleted said "activating" so that the recited steps of identifying, ..., filling are fully performed to produce a tangible result by said filling step.

35 U.S.C. § 102(c)

The Examiner rejected claims 1-2 and 7-14 under 35 U.S.C. § 102(c) as allegedly being anticipated by Conlon, Rhonda, "Filling a Range with Sequential Data", Copyright 1997, North Dakota State University Agriculture Communication Department, XP002347869m at: <http://web.archive.org/web/20000901081243/http://www.lgta.org/123/14.data.htm>.

Applicant respectfully contends that Conlon does not anticipate claim 1, because Conlon does not teach each and every feature of claim 1. For example, Conlon does not teach the feature: "computing the value y_i of the empty cell according to the values $y_{previous}$ contained in the selected one or plurality of previous sample cells, and the values y_{next} contained in the selected one or plurality of next sample cells" (emphasis added).

Conlon states in the first paragraph of page 1: "With Fill By Example, you select a range that contains the beginning of a sequential list and the rest of the area you want to fill, and 123Win will continue the pattern" (emphasis added). Applicant notes that in Conlon's illustrated example cells C2 and C3 appear at the beginning of the sequential list in column C and are the only sample cells in column C. The empty cells in the column C are cells C4-C12 which are positioned after the sample columns C2 and C3. Therefore the values y_i of the empty cells C4-C14 are computed according to the values $y_{previous}$ contained in the selected previous sample cells C2-C3 and therefore not according to the values y_{next} contained in the selected next sample cells (e.g., C5-12 if the empty cell being processed is C4).

Based on the preceding arguments, Applicants respectfully maintain that Conlon does not anticipate claim 1, and that claim 1 is in condition for allowance. Since claims 2 and 7-14 depend from claim 1, Applicants contend that claims 2 and 7-14 are likewise in condition for

allowance.

09/995,266

14

35 U.S.C. § 103(a)

The Examiner rejected claims 3-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Conlon, Rhonda, "Filling a Range with Sequential Data", Copyright 1997, North Dakota State University Agriculture Communication Department, XP002347860, at: <http://web.archive.org/web/20000901081243/http://www.lgta.org/123/14.data.htm> in view of EXCEL97 Book, Chapter 4: Entering and Editing Data, Available at: <http://libdata.itc.gu.edu.au/lap/XL97BOOK/Excel-04.htm>, 1997.

Since claims 3-6 have been canceled, the rejection of claims 3-6 under 35 U.S.C. § 103(a) is moot.

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 09-0457.

Date: 03/13/2006

Jack P. Friedman
Jack P. Friedman
Registration No. 44,688

Schmeiser, Olsen & Watts
3 Lear Jet Lane, Suite 201
Latham, New York 12110
(518) 220-1850